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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,929	11/12/2003	Benjamin Quaintance	IPK-023969-US	9883
1726	7590	08/11/2005	EXAMINER	
INTERNATIONAL PAPER COMPANY 6285 TRI-RIDGE BOULEVARD LOVELAND, OH 45140			ELKINS, GARY E	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/712,929

Applicant(s)

QUAINTANCE, BENJAMIN

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>20050207</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the embodiments as set forth in claims 17 and 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered. See paragraph 3 below for further explanation.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the

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following is required: no description can be found in the specification of the “interlocking means” as set forth in the combination of either claim 17 or 18. See paragraph 3 below for further explanation.

Claim Rejections - 35 USC § 112

3. Claims 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The blank as set forth in claim 17 does not appear to be disclosed within the specification. Specifically, no description can be found of a blank including roll over flaps, webs, a notch, hook means projecting laterally into the notch and interlocking means on the end wall panels and end flap panels. If the hook means is also the interlocking means, then the hook means is a double inclusion of an element. If some other element, as disclosed, is being referred to, it is not clear what element is being set forth as the interlocking means in this claim. The blank as set forth in claim 18 does not appear to be disclosed within the specification.

Specifically, no description can be found of a blank including roll over flaps, webs, a notch and interlocking means on the end wall panels and end flap panels. If the hook, as disclosed, is being set forth as the interlocking means, it is unclear how the interlocking means is located on both the end wall panels and end flap panels, i.e. the hooks appear to be only located on the end flap panels. If both the hooks and the webs are referred to, the interlocking means is a double inclusion since the webs were previously defined in the claim.

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4. Claims 17 and 18 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification fails to describe how the embodiment as set forth in either claim 17 or claim 18 is to be made and used. It is not believed that one of ordinary skill in this art would be able to make and use an embodiment as set forth in either claim 17 or claim 18 upon viewing the disclosure.

5. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following each lack antecedent basis in the claims, i.e. each is only inferentially set forth: claim 1, lines 5, 7 and 9, "said end flap panels" (only one previously set forth), "said...end wall panels" (only one previously set forth), "said end flap panels" and "the upper edges of the end flap panels" (only one upper edge previously set forth).

In claim 1, line 1, "an end flap panel on opposite ends of the side walls" is unclear with respect to how all the ends of all the side walls include a single or common end flap panel. If a plurality of end flap panels is the intended meaning, the phrase should recite that an end flap panel is on each of opposite ends of each of the side walls as a matter of clarity. The following phrases are unclear for the same general reason, i.e. a single element being recited as located on a plurality of separate elements or a plurality of separate elements being recited as located on a single element: claim 1, lines 4 and 5, "an end wall panel on opposite ends...", claim 1, lines 10 and 11, "said at least one web engaged in said at least one notch" (two webs previously set

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forth), claim 1, line 12, “the upper edge of said end flap panels”, claims 3 and 6, “the upper edge of the end flap panels”, claim 15, lines 12 and 14, “an upper edge of the end flap panels” and “the upper edge of the end flap panels”, claim 16, lines 15 and 16, “a cover lock tab formed on the cover end walls for engagement in hand hold openings” (how is a single lock tab formed on all the cover end walls and for engagement in a plurality of openings?) and claim 14, lines 5-7 and claim 17, lines 12 and 13, “said end wall panel...to form the end walls” and “said end wall panel and said end flap panels...to form the end walls of the cover” (how does a single end wall panel and all the end flap panels for the plurality of end walls?).

The following are each indefinite insofar as a plurality of the recited element were previously defined in the claims and one cannot determine which of the previous plurality is being referred to: claim 1, lines 10, 13 and 14, “said end wall panel”, “said at least one web” and “the roll-over flap”, claim 2, “the end flap panel”, claim 4, “the end flap panel”, “the panel” and “the side wall”, claim 5, same as claim 4, claim 7, “the end flap panel”, claim 8, “the end flap panel”, claim 9, “the end flap panel”, claim 10, lines 9, 10, 13 and 16, “the end flap panel”, “the end wall panel” and “said end flap panel”, claim 14, lines 5, 6, 10 and 11, “said end flap panel”, “the end wall panel” and “the end wall panel”, claim 15, lines 6, 10, 11, 13 and 14, “said end wall panel”, “the end wall panel”, “the end wall panel” and “said score line”, claim 16, lines 8, 12, 13, 18, 19 and 22, “said end wall panel”, “the end wall panel”, “the end wall panel”, “the cover end wall panel”, “the cover end wall” and “the opening” and claim 17, lines 12, 17, 18 and 21, “the end wall panel”, “said roll-over flap”, “the end wall panel”, “said at least one web”, “said at least one web” and “the web”.

The following are each a double inclusion of an element insofar as the element is being reintroduced into the claims: claim 3, "a projection", claim 10, lines 3, 6, 10, 15 and 17, "a container" (see line 1), "opposite side walls", "a container", "an erected container", "an erected container" and "a container", claim 16, lines 16, 21, 24 and 25, "end walls", "a container", "a hand hold opening" and "a hand-hold opening" and claim 17, lines 3, 11, 15 and 21, "an erected cover" (four occurrences).

The following are each unclear with respect to what previous element(s) or new element is being referred to: claims 3 and 6, "them" and claims 4 and 6, "that notch".

In each of claims 2 and 7-9, the side wall to which the end flap panel is connected" is unclear since claim 1, line 4 recites that an end flap panel is on opposite ends of all the side walls", i.e. which side wall is the one being referred to?

Claim 18 includes the same indefiniteness as detailed above with respect to claim 17, lines 1-19.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 2 and 6-10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by either Heineman or France '619. With respect to Heineman, it is noted that the folds 13 are each considered a "web" insofar as claimed.

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8. Claims 1, 2, 6-11 and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ruiz et al.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 14 and claim 17, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Martinek et al or Royce, each in view of any one of Ruiz et al, Heineman or France '619. Each of Martinek and Royce discloses a cover and blank including end flaps and a roll-over panel, e.g. 7, 181, respectively connected to an end panel via a web of material. Each of Martinek and Royce does not disclose an interlocking means including a notch in one of the end flap panels engaging a portion of the web and hook means extending into the notch. Each of Ruiz et al, Heineman and France '619 teaches that it is known to secure a roll-over panel by providing interlocking means including a notch with a hook means therein which engages within an aperture separating webs between a roll-over panel and an end panel. It would have been obvious to secure the roll-over panels in either Martinek et al or Royce using an interlocking means as taught by any one of Ruiz et al, Heineman or France '619 since the interlocking means of Ruiz et al, Heineman or France '619 requires less material to form the blank as compared to the interlock in Royce and provides a better securement of the roll-over panel than the construction shown in Martinek et al.

Allowable Subject Matter

11. Claims 3-5 and 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

12. Claims 15 and 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

13. With respect to claim 18, no decision regarding patentability could be made due to the lack of a clear understanding of what Applicant is trying to claim. Further consideration will be made upon response to this office action.

Conclusion

The remaining cited prior art is illustrative of the general state of the art.

In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses in Office Actions to (571)273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by Applicants who authorize charges to a PTO deposit account. Please identify the Examiner and art unit at the top of your cover sheet.

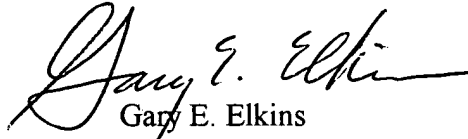
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PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Gary Elkins at telephone number (571)272-4537. The Examiner can normally be reached Monday through Thursday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Mr. Nathan Newhouse can be reached at (571)272-4544.


Gary E. Elkins
Primary Examiner
Art Unit 3727

gee
8 August 2005